



STATE OF WASHINGTON

## STATE BUILDING CODE COUNCIL

128-10th Avenue SW • P.O. Box 42525 • Olympia, Washington 98504-2525  
(360) 725-2966 • fax (360) 586-9383 • e-mail sbcc@cted.wa.gov • www.sbcc.wa.gov

## MINUTES STATE BUILDING CODE COUNCIL

**Date:** November 20, 2009  
**Location:** Seattle Area Pipe Trades, Renton

**Council Members Present:** Peter DeVries, Chair; Jon Napier, Vice Chair; Ray Allshouse; John Chelminiak; Kristyn Clayton; John Cochran; Mari Hamasaki; Angie Homola; Donald Jordan; Tom Kinsman; Robert Koch; Jerry Mueller; Tien Peng; Dale Wentworth; Senator Janea Holmquist; Representatives Timm Ormsby and Bruce Dammeier

**Council Members Absent:** Rod Bault

**Visitors Present:** Joe Andre, Gregory Staats, Gary Nordeen, Chuck Murray, Kraig Stevenson, Richard Ferry, Quinn Wyatt, Amy Brackenburg, Eric Lohnes, Brian Minnich, John Hogan, Jeanette McKague, Terri Hotvedt, Tom Young, David Cohan, Patrick Hayes, Garrett Huffman, Chris Winslow, Kim Drury, Diane Glenn, Tonia Neal, Ben Ferguson, Tom Nichols

**Staff Present:** Tim Nogler, Krista Braaksma, Joanne McCaughan

### CALL TO ORDER

Peter DeVries, Council Chair, called the meeting to order at 9:05 a.m. Peter welcomed everyone. Introductions were made.

Peter announced that the Council won't accept additional testimony at this meeting. He said comments will be received from visitors only if they are made in response to a Council member's request for clarification.

### REVIEW AND APPROVE AGENDA

The agenda was reviewed and approved as written.

## **PUBLIC COMMENT ON ITEMS NOT COVERED BY THE AGENDA**

Terri Hotvedt, representing the Rental Housing Association of Puget Sound

We've shared with all the legislators [members] of the State Building Code Council (I've given a hard copy to Tim as well) regarding the concerns that we have with the promulgation of the rulemaking, particularly the portion of the carbon monoxide monitoring devices and the implementation date, which differs from the date that was established in statute.

We would ask, respectfully, that the State Building Code Council withhold the implementation of the carbon monoxide detection rule until such time as the discrepancies between the implementation dates can be addressed.

We worked very hard during the legislative session with other stakeholders in the rental housing industry regarding an implementation date that we thought was reasonable, which we thought was doable in terms of education for our members, and which we thought was cost-effective in terms of trying to amortize the cost of this implementation over time. I don't see that that's necessarily addressed in the rulemaking, where the date has been moved up from the 2013 date for all existing properties.

We have definite concerns about that. So I'm glad to take your questions. As I said, I have a handout that I'll share with Tim. It's also been sent to all the legislators on the Committee [Council members].

We are concerned that the legislative intent as established in the law is not being followed in the promulgation of these rules with respect to the carbon monoxide monitoring devices for existing buildings.

Jeanette McKague, Washington Realtors

We were part of the stakeholder group that was just mentioned on the carbon monoxide alarms. And we have the same concern about the change in the date, and the opportunity to really make sure that we provide for both rental housing and for private homes and so forth the right education program and make sure that all the providers are consistent in the information that they're providing to the public.

So, again, we would make the same request, that this not be implemented, but rather the legislative dates be honored. It doesn't mean that we won't get to that sooner. But, at least, it provides an opportunity to make sure we get a good program put in place.

## **RULEMAKING DECISIONS**

Kristyn Clayton reminded members that a motion is currently on the table from the last Council meeting.

### **Motion #1:**

**In the interest of time, to expedite business while recognizing the rights of Council members, Angie Homola moved that discussion by each Council member be limited to two minutes per amendment. Jon Napier seconded the motion.**

Tom Kinsman, while agreeing with brevity, said he doesn't believe two minutes is adequate. He supports everyone trying to achieve that brevity, but he opposes having such a restriction formally made. Peter assured Tom the restriction will be loosely enforced. He said he won't time each discussion with a watch. The point is to keep discussion as short and to-the-point as possible.

**Angie withdrew Motion #1.**

Kristyn said the motion which was tabled at the last meeting was to move forward the energy code proposals as amended. That motion was tabled before the Council decided what "as amended" means. She thanked everyone for taking the time to attend another meeting.

Tim Nogler said the first order of business is to remove the tabled motion from the table.

**Motion #2:**

**Kristyn Clayton moved to remove her motion to adopt the energy code proposals as amended from the table. Angie Homola seconded the motion. The motion was unanimously adopted.**

Kristyn said there are 30 different amendments to be considered. Some need to be individually considered, some as a group, and others need to be postponed. She suggested advancing sequentially, with a few exceptions. Amendment #29 was added this morning. Council staff has removed amendments that are cleanup and cross reference. As previously moved, staff will handle such administrative amendments.

Mari submitted an additional amendment, basically clarification, to be considered as #31.

**Motion #3:**

**Angie Homola moved that the proposed energy code amendments presently before the Council not be amended. John Cochran seconded the motion.**

Representative Janea Holmquist cautioned against not being able to modify amendments. She said such a motion would preclude such simple modifications as changing an "and" to an "or." During nine years in the Legislature, she's never seen such a motion.

**Amendment to Motion #3:**

**Angie Homola amended her motion to exempt amendments for clarification and syntax.**

Representative Bruce Dammeier expressed doubt about expending two minutes time on each amendment. He raised the point that disallowing modification of existing amendments may result in new amendments being created that will extend the debate time. That would defeat the purpose of the brevity intent.

John Chelminiak spoke against the amendment. He has a time conflict which necessitates him leaving this meeting for a while. He encouraged Council members to expedite discussions because he doesn't believe not allowing modification of existing amendments is the appropriate way to expeditiously proceed.

Kristyn spoke against the amendment to Motion #3 as well. She said there's at least one proposal she needs to correct.

Ray also spoke against the motion. He said one amendment, particularly Chapter 9, may impact another amendment.

**The question was called for on the Amendment to Motion #3. The motion was defeated by a vote of 2 aye to 11 nay.**

Kristyn said she would like to postpone Amendment #1 until the outcome of other amendments is known.

Janea suggested starting with Chapter 9, since other amendments are secondary to it. Kristyn cautioned that it isn't quite that simple. She said she has a "cheat sheet" of friendly and nonfriendly amendments. Janea recommended starting with Chapter 9 and then moving to Kristyn's "cheat sheet." Kristyn disagreed. She said Chapter 9 is a pivotal point of energy cost savings. It represents from 12-16 percent of the entire savings for residential. However, she agreed with Janea about the impact the outcome of Chapter 9 has on other amendments. She said if it isn't adopted, it will totally change six month's work of the Energy Code TAG. Compromises were made in the residential section by the TAG in the belief that Chapter 9 was moving forward. Kristyn noted that it's a violation of statute to reduce the stringency of energy code conservation in Washington State.

#### **Motion #4:**

**Angie Homola moved to proceed through proposed amendments sequentially, without deferral. Tom Kinsman seconded the motion.**

Janea spoke against the motion. She said according to Robert's Rules, amendments are taken sequentially in the order of sections. It's not logical to discuss chapters that will later be deleted from the final code.

John Chelminiak spoke in favor of Motion #4. Whether or not Chapter 9 makes previous work moot, he suggested the Council proceed.

**The question was called for. Motion #4 was unanimously adopted.**

**Amendment #1:**

**Kristyn Clayton moved adoption of Amendment #1. Dale Wentworth seconded the motion.**

Kristyn said this amendment relates to air leakage testing in residential buildings. It creates jobs. She's aware of much training in community colleges to educate people how to do this testing.

Amendment #1 was a negotiation to change air leakage testing from mandatory in the residential section to optional in Chapter 9. Kristyn said if Chapter 9 fails, she will introduce another amendment to move this new language back to Sections 5 and 6.

Bruce said Amendment #11 should be considered by the Council before Amendment #1, in the interest of saving time. Chairman DeVries reminded Bruce that the Council has already voted to proceed sequentially.

Kristyn said she offered this conciliatory amendment for the homebuilders, who consider air leakage testing as a cost concern.

**Kristyn withdrew Amendment #1, so air leakage testing is retained as mandatory in Chapters 5 and 6. Dale Wentworth agreed with the withdrawal.**

**Amendment #2:**

**Tien Peng moved adoption of Amendment #2. Bruce Dammeier seconded the motion.**

Tien said this amendment is to not adopt Section 502.4.5. He said even though air sealing represents residential savings and creates jobs, the actual testing of the leakage is costly. He supports air leakage testing being in Chapter 9 as an option.

Dale spoke against the motion. He said air leakage is on average 30-40 percent energy savings in homes. Despite an initial cost for testing, it represents significant cost savings to residents over the lifetime of the home.

Don Jordan said he agrees air sealing is very important, He said if it isn't done correctly, that's not known until testing, so testing needs to be done.

Angie spoke in favor of the fact that air leakage testing creates jobs.

Bruce Dammeier expressed concern because of unknown ramifications on the design and construction of buildings.

Dale said the Council received testimony that the time and cost savings for testing is very minimal. Kristyn added that it represents 20-40 percent energy cost savings to homeowners.

Tom supports testing and doing it now. He opposes Tien's amendment.

**The question was called for on Motion #6. The amendment failed by a vote of 1 aye to 12 nay.**

### **Amendment #3:**

**Tien Peng moved adoption of Amendment #3. Ray Allshouse seconded the motion.**

Tien said this amendment adds an exception to Section 502.4.5, whereby after passing two air leakage tests, a random sampling of a builder's buildings may be allowed.

Angie said she's very opposed to this amendment. Having worked in building departments and been a plans examiner for three years, she said this amendment sets bad precedence for all codes. It unfairly puts onus on inspectors and plans examiners. It's the same as saying if a contractor builds two good buildings that get occupancy certification, buildings built by that contractor don't need any more inspections because he's proven that he does good work. Kristyn agreed with Angie's comments. John Cochran also agreed, saying it's poor code language.

Bruce raised a point of order. He said it's normal convention to allow the maker of a motion to speak to it first, before people who oppose it. Peter said he wasn't aware that Tien wished to speak about Amendment #3.

Tien said the energy savings from well sealed buildings are well documented. He proposed the amendment because of the huge cost to the developer for air leakage testing of all homes in a project, even though the systems to create all the homes are identical. Developers follow similar protocols established in Energy Star. Tien agreed the language may not be good code language. He agreed it may be revised, while still accomplishing his intent.

Tom said he agrees with the philosophy. He said building officials should have the authority to randomly select several buildings in a project of 200-300 homes to inspect, rather than inspecting each and every home in the project. However, problems arise when developers move from that project.

Ray said he's torn. Having gone through the training, he sees the value of air leakage testing. Training points out that once contractors become familiar with the process, they no longer fail the test. It is expensive to test each and every building in a project. However the way the amendment is written, enforcement is problematic for building officials.

Dale spoke against the motion. He objected to tracking just one developer or contractor, because multiple employees of that developer or contractor perform the work. Not all of those employees will have the same abilities or concerns, producing the same quality of work. Random testing may also give homeowners a false sense of security.

Bruce said he views the amendment as a reasonable effort to accomplish the energy saving benefits of air leakage testing while minimizing the cost of the requirement. Agreeing with Ray's comments about contractors only failing the testing the first two or three times until they know the process, Bruce said random testing seems to be a reasonable approach to keep them in line.

Don Jordan said his experience is that buildings pass the test every time when testing is done on every home. When it becomes random, houses fail. Don said the cost of testing will decrease as testing is continually done, just as the cost of every new procedure decreases as its practice increases.

Bruce said if a house fails, the contractor incurs significant expense to bring it into compliance. That expense is the motivation to correctly manage the process. Kristyn said it's almost impossible for a builder to go back and fix it. It gets buried. She said the language of the original proposal was carefully crafted to give the builder the opportunity to fix it early in the process, specifically so he wouldn't incur a huge expense. For \$200 testing, the payback to the homeowner is in the first few years.

**The question was called for on Amendment #3. The amendment failed, by a vote of 2 aye to 11 nay.**

#### **Amendment #4:**

**John Chelminiak moved adoption of Amendment #4, removing Section 503.4.1 and the requirement for variable speed motors in furnaces. Tom Kinsman seconded the motion.**

Tien said this amendment represents a significant cost.

Bruce said his position on this amendment hinges on Amendment #11. It could change dramatically, depending upon whether or not Amendment #11 is adopted. His concern is that the charge of the Council is to set minimum standards. This requirement currently is only available in high-efficiency, high-cost furnaces. It would significantly drive up the cost of furnaces by effectively eliminating the more affordable brands.

John Chelminiak said he moved this amendment because it allows some of the lower priced furnaces to be used. He said the motion before the Council, not the amendment, requires high-cost variable speed motors.

Bruce clarified that he's in favor of the amendment.

**The question was called for on Amendment #4. The amendment was adopted, by a vote of 10 aye to 3 nay.**

**Amendment #5:**

**Representative Bruce Dammeier moved adoption of Amendment #5. Ray Allshouse seconded the motion.**

Bruce said the motion removes "Installation of ducts in exterior walls, floors or ceilings shall not displace required envelope insulation." He said limiting or prohibiting ductwork in exterior walls will significantly alter the design of ductwork and drive up the cost without any reasonable energy savings.

Ray said building officials support this amendment. It would essentially prohibit ducts and exterior walls less than 8-10 inches thick. A concern is that it may affect proper register placement.

**Amendment to Amendment #5:**

**Angie proposed amending Bruce's amendment to read: "Installation of ducts of exterior walls may displace required envelope insulation." Tom Kinsman seconded the motion.**

Bruce asked Ray if Angie's amendment is friendly. Ray answered that he thinks it is. Bruce said he understands Angie's amendment eliminates ceilings from deletion in Bruce's amendment, assuming walls are where the biggest problem occurs. Angie agreed.

Kristyn said Angie's amendment to Bruce's amendment absolutely allows ductwork to run in exterior walls with no insulation, except whatever the building material is, such as board or T1-11.

Bruce accepted Angie's amendment to his amendment as a friendly amendment and included it with his base motion. Ray voiced uncertainty about the modification to the amendment. He said the building official's concern is if ducts are restricted in exterior walls and aren't allowed to displace the necessary envelope insulation, that forces a thicker wall at those locations. Bruce agreed; that's also his concern. Ray didn't think all

insulation would be removed. If the insulation is simply reduced because of the duct and not removed, he supports it. Kristyn said she reads “displaced required envelope insulation” as “remove.” She said the proposed language leaves a gigantic hole in the wall.

Peter suggested the following modification of Angie’s amendment to the amendment: “shall not displace minimum envelope insulation.”

**Angie withdrew her friendly amendment to Amendment #5. She then proposed a new Amendment to Amendment #5 in the first paragraph of Section 503.10.1: “Installation of ducts with exterior walls may be reduced to a minimum of R-10 on the exterior.”**

Kristyn expressed uncertainty how Angie’s amendment to the amendment relates with the envelope tables. She said specifying an R-value is dangerous.

**Lacking a second, Angie’s amendment to the amendment died.**

Bruce said his experience when he built his house was placing batt insulation behind ducts and compressing it. Angie and Peter both said that wouldn’t give R-21. Bruce said that’s the reason for his amendment. He said the burden of requiring the relocation of the duct into an interior wall is an unreasonable limitation and expense in light of the energy savings in that small duct work area where there’s compressed batt insulation or rigid insulation. Bruce stressed caution, given other challenges about where ducts can be placed.

**Angie changed her amendment to Amendment #5 to read: “Installation of ducts in exterior walls may reduce required envelope insulation by 50 percent.”**

Bruce voiced concern about unknown consequences of Angie’s amendment to his amendment. He decided to not view the amendment as friendly. Kristyn suggested, “Installation of ducts in floors or ceilings shall not displace required envelope insulation.” She said she believes WABO opposes “exterior walls.” She opposes that because 2030 goals and 70 percent energy savings can’t be achieved by retaining the status quo. Changes are needed in how business is done.

**Peter asked for a second to Angie’s Amendment to Amendment #5. Angie’s amendment died for lack of a second.**

**Amendment to Amendment #5:**

**Tom Kinsman suggested removing “exterior walls” from Amendment #5. Thus the sentence would read “Installation of ducts in floors or ceilings shall not displace the required envelope insulation.” Bruce and Ray accepted Tom’s amendment as friendly. Therefore Amendment #5 is modified to reflect Tom’s amendment.**

Angie opposed Tom's amendment to the amendment, because there would be no insulation where ducts are located. John Chelminiak asked if the amendment means there would essentially be no insulation on ducts in exterior walls. Tom guessed that what's being done is thick insulation in the stud cavity in an exterior wall in which a duct is placed becomes compressed. He doesn't think ducts have no insulation.

John Chelminiak asked what energy savings would be achieved where ducts are on exterior walls. Tom said there would be no increased energy savings.

Angie spoke in opposition to Tom's amendment. She said it does an injustice to energy efficiency.

Bruce restated the amended Amendment #5: Section 503.10.1 states, "Installation of ducts in (~~exterior walls~~) floors or ceilings shall not displace required envelope insulation. Building cavities may not be used as ducts."

**The question was called for on the amended Amendment #5. The amendment failed by a vote of 6 aye to 7 nay.**

#### **Amendment #6:**

**Kristyn Clayton moved adoption of Amendment #6, with Section 505.1 modified to read as follows:**

505.1 Interior Lighting: A minimum of 50 percent of all luminaires shall be high efficacy luminaires.

Exception: Lighting that complies with the Prescriptive Lighting Option in Section 1520 or the Lighting Power Allowance Option in Section 1530.

**The remaining subsections are renumbered. Ray Allshouse seconded the motion.**

Kristyn said the core issue is replacing "high efficacy lamps" with "high efficacy luminaires." She said the problem was originally discussed and debated, and accepted as modified, with lighting designers on April 27, 2009. Then during the last five minutes of a later TAG meeting at which lighting designers weren't present, it was significantly changed. Kristyn opposes the later modification, which requires building officials to count lamps. She said luminaires are fixtures, easier to tag and design and harder to change. Bruce asked if luminaires require a pin fixture. Kristyn answered they do. Bruce said her amendment then eliminates homeowner flexibility.

Jon asked if Kristyn's amendment has the support of the lighting industry. Kristyn answered yes. In response to Bruce, Jon said one is stuck with whatever the base is, screw-in or pin. Tom asked for elaboration of the lighting industry's support. Kristyn said it was predominately lighting designers and the National Electrical Manufacturers Association (NEMA). Tom said he heard the audience was small at the Energy Code TAG meeting at which the language was crafted. Kristyn said when the original as-

modified language was crafted, “there were probably about eight lighting design professionals in the room plus NEMA, who was represented as well by Joe Andre.” Their input was to replace “high efficacy lamps” with “high efficacy luminaires.”

Ray thanked Kristyn for changing this amendment to reflect public comment. Bruce reiterated his objection on behalf of reduced homeowner flexibility. He said it will be a “royal pain” for citizens.

**The question was called for on the amended Amendment #6. The amendment was adopted, 11 aye to 2 nay.**

#### **Amendment #7:**

**Kristyn Clayton moved adoption of Amendment #7. Jon Napier seconded the motion.**

Kristyn said this amendment revises the UA trade-off baseline for walls in Climate Zone 2 from 0.056 to 0.044, to reinstate current code. This change is made because a stringency reduction violates statute.

Angie asked how the amendment relates to R-value. Tim discussed the assembly description.

Tom spoke against Amendment #7, disagreeing with Kristyn that statute prevents stringency reduction.

Bruce asked for confirmation that the amendment makes both climate zones the same. Kristyn agreed.

**The question was called for on Amendment #7. The amendment failed, by a vote of 5 aye to 6 nay.**

#### **Amendment #8:**

**Ray Allshouse withdrew Amendment #8.**

#### **Amendment #9:**

**Kristyn Clayton moved adoption of Amendment #9, revising Footnote 4 to Table 6-1 to not reduce energy code stringency. Dale seconded the motion.**

Tom spoke in opposition to this amendment, reiterating previous comments. Angie spoke in favor of the amendment, saying it’s presently common practice in the field to

achieve R-12 for below-grade walls in Climate Zone 2 by installing two inches of rigid insulation.

**The question was called for on Amendment #9 to Motion #2. The amendment was adopted by a vote of 9 aye to 2 nay.**

**Amendment #10:**

**Kristyn Clayton moved adoption of Amendment #10. Jon Napier seconded the motion.**

Kristyn said this amendment reinstates Table 6-2, for two climate zones in the State of Washington. Tom asked why Kristyn is proposing this amendment. Kristyn said her intent is to maintain two climate zones in Washington. While it somewhat increases stringency for the colder climate, it eases transition to the IECC, which has three climate zones for Washington.

**Amendment to Amendment #10:**

**Mari Hamasaki moved that the U-factor for unlimited, vertical glazing be “0.30” instead of “0.25.” Kristyn Clayton accepted retaining the current value as a friendly amendment.**

Angie compared Table 6-2 on page 52 of the rulemaking document with Table 6-2 on page 8 of the paper amendment. She said the glazing U-factor values for I, II, III and IV differ. She said values are reduced on page 8 from 0.35 to 0.32 in both I and II and from 0.35 to 0.30, with Mari’s friendly amendment, in III and IV. Jon said the table in Kristyn’s amendment, modified by Mari, actually replaces rather than modifies.

Kristyn explained that part of the modification is that high-rise residential has been moved out of residential. The Council previously voted on that issue. But that removal adds confusion.

Tien noted that Option IV, unlimited glazing, at 0.30 with Mari’s friendly amendment, is the same as Option III, 17 percent glazing. He asked why two options are needed if the value is the same. Kristyn answered that is why 0.25 was originally proposed as the unlimited glazing U-factor.

**Jon removed his second to the motion. Angie moved to second Amendment #10 as modified.**

Bruce clarified that the amendment reinstates two climate zones, in deference to SHB 2198, but the reinstated Table 6-2 has different values for vertical glazing. Kristyn agreed.

**The question was called for on the modified Amendment #10. The amendment was unanimously adopted.**

**Amendment #11:**

**Ray Allshouse moved to not adopt proposed modification of Chapter 9 (additional residential energy efficiency requirements). Bruce Dammeier seconded the motion.**

Ray said he proposed this amendment in recognition of the building industry, which has yet to show signs of recovery in today's economic climate. While the new Chapter 9 has been proposed as being relatively easily achievable, by preserving flexibility and providing compliance options, in reality the options are limited to favoring high-efficiency equipment. Ray believes it's inappropriate for the Council to enact code provisions favoring one product over another, while maintaining a competitive marketplace.

Angie disagreed with Amendment #11. She said this amendment undoes all the proposed forward movement. Consideration of the future and jobs is vital. At a Washington State Association of Counties meeting she attended yesterday, the Governor said the top two national jobs are: (1) health care and (2) energy and the environment. Adjusting nine-year and 10-year moratoriums on permit fee changes in two Island County departments caused huge hardships on the building industry. Such moratoriums don't do builders a favor, because the lack of action now must be made up later.

Jon asked Kristyn what the consequences are to the rest of the energy code change proposals with the deletion of Chapter 9. Kristyn answered that it's significant for residential. It accounts for 75-80 percent of the proposed residential savings.

Bruce said this amendment is the heart of the matter when discussing his broad concerns about the unprecedented nature of the complete energy package. It is the most critical amendment, broadly impacting the lifestyles of Washington residents and the state's economy. This amendment gives the Council the opportunity to moderate energy changes, to show recognition of JARRC concerns, and to show awareness of the impact of energy code changes to the cost of housing and jobs.

Bruce said the energy code change proposals rank in estimating the increased cost of housing from \$2,000 to \$20,000. He thinks a more realistic estimate is \$5,000 to \$7,000. Chapter 9 is responsible for a significant portion of those costs, approximately \$4,000 worth and is limited in its relative ranking of energy savings. This chapter is also overshadowed by the federal preemption issue. The Council needs to recognize that there may potentially be a legal challenge.

Chapter 9 is the most complex chapter, not only for builders but also for building officials. Bruce understands that similar proposals previously brought before the IRC and ICC were defeated.

Kristyn spoke in opposition to Amendment #11. Rebutting previous comments, she said it hasn't been decided yet at the IRC and ICC level. Adoption there is still possible. National precedence exists for legislation similar to the proposed Chapter 9. The proposal here was modeled after Oregon's provision that was instituted 18 months ago.

Kristyn said the proposed Chapter 9 truly represents significant savings in the residential sector. It provides a list of options. While complex, it will become familiar with use.

Kristyn said that now is the time to implement a change like Chapter 9, with almost minimal impact, because there is currently no construction. Now is the time for education and training, for getting the workforce in place, for manufacturers to stock up on equipment. Then when the building industry recovers and people can get mortgages again, progression won't be "blindsided."

Dale also spoke in opposition to Amendment #11. He said it's very important to look not just to tomorrow, but years into the future. High-efficiency equipment represents savings to Washington citizens for years to come. While the initial cost may be high, it's insignificant compared to savings over the life of the equipment.

Also opposing Amendment #11, Jon said there was much work at both the TAG and Committee levels. Input was received on this issue during the public hearing process. The ramifications of deleting the proposed Chapter 9 are unknown. Synergy was part of the overall equation. Jon said he's looking forward to Amendment #12 as a good compromise. It keeps Chapter 9 in the body of the code and allows the table to be utilized.

Senator Janea Holmquist spoke in favor of Amendment #11. She said increasing the cost of housing will have a spiral effect: less people will buy homes, resulting in fewer houses being built, resulting in the loss of jobs. Janea thinks now is the absolute worst possible time for the Council to move forward with code provisions that have a such a devastating impact as Chapter 9, before first letting the real estate and housing markets recover.

Based on her previous experience as the ranking Republican member on the Senate Housing Committee, Janea said adoption of Chapter 9 will have a devastating impact on low-income and middle-income families wishing to get into a home. Families will be forced into existing housing, with lower standards for safety and energy.

Finally, Janea is against Chapter 9 because of serious legal questions surrounding the federal preemption issue and because of the JARRC report.

Tom said his general sense this year of the Energy Code TAG is that it “charged out of the gate,” proceeding too aggressively. The Legislature set forth a philosophical path for the state to make incremental energy improvements through 2030. Tom said energy improvements will still be made, despite the deletion of Chapter 9. Deletion doesn’t mean death, only postponement until the next code cycle.

Angie said she thinks deleting Chapter 9 from the code would be a mistake. Based on her experiences as a licensed contractor, a finish carpenter, a machinist, a building inspector and a planner, she said buildings will be built regardless of cost. Chapter 9 is positive in that it gives builders flexibility. Angie believes the Council has addressed and responded to JARRC concerns.

Angie noted that extraordinary measures are called for in extraordinary times. This is the time to think about how the state will move ahead and stay current, so jobs will be secured.

Serving on the Saratoga Housing Authority, Angie said she is writing code to define “affordable housing.” She said, “there’s affordable housing and then there’s housing that people can afford.” Houses sit empty “all over the place.” Land use and development needs to be considered. Growth needs to occur in such a way that open space and resources are protected.

Ray rebutted statements about the flexibility of Chapter 9. He said written testimony submitted by Tacoma Power stated that three Chapter 9 provisions “may not pass this test and therefore are not in the best interests of our community.”

John Cochran asked Tim if approval of Amendment #11 removes Amendment #12 from Council consideration. Tim answered yes, it would remove #12.

Bruce said bankers tell him that they can’t lend because the cost of homes surpasses their appraisals. He said that’s why the housing market is currently in a stall. Council approval of Chapter 9, which further increases the cost of homes, will delay economic recovery in Washington State.

Jon said he might be more supportive of Bruce’s concerns if the Council had more control, above the very narrow scope of control it can exercise. He said the high price of homes isn’t necessarily based on the structure or the envelope. Many external factors impact pricing. If the Council lets those factors influence its decisions, it may make wrong decisions. Jon suggested that the Council focus on the scope of proposals before it, because it can’t control other external factors.

Ray spoke in rebuttal of Jon’s comments. He said he believes the reason the Council exists is because the Governor expects it to make recommendations based upon what the Council believes is in the best interests of the entire State of Washington. He thinks the Council should be opening, rather than closing, its focus.

Kristyn said Washington State is currently in unprecedented times, not only economically, but also from a climate standpoint. She said the Governor's Office supports the energy code change package. Washington wants to stay on the leading edge of energy conservation in the nation. This energy code change package is the way to accomplish that.

Speaking to Jon's comments about Council control over the cost of housing, Angie said the price people are willing to pay for a house has a huge impact on the price of housing. She cited a recent Island County assessment challenge. The house was assessed at \$800,000. The homeowners objected to paying taxes on that amount. However, they had the house on the market for \$900,000.

Speaking about the issue of affordable housing, Representative Timm Ormsby said the energy code change proposal package deals with new construction of residential homes. He said a glut of foreclosed homes and new homes that aren't moving because potential buyers can't get financing must be dealt with before the housing industry can turn around.

Timm said an extremely wide range of estimates has been presented about this energy code change package. He prefers to defer to Energy Code TAG work, because it reflects moderation and involved much debate and public input.

The Office of Financial Management has issued a conservative estimate of a 30 percent population increase in Washington State. Conservation will account for 75-80 percent of the increased energy demand of that added population. The vast majority of that energy conservation will come from residential retrofitting of existing structures. Since the package of energy code change proposals before the Council only affects new residential construction, retrofitting existing structures won't be impacted by those code change proposals. The most impact they'll have on existing housing is to set a goal for efficiencies to be achieved by retrofitting.

Timm said the state has a compelling interest in providing affordable utility bills. Similar arguments as today were raised in 2005, when the state talked about the cost of construction associated with instituting high-performance buildings. Cost estimates varied very widely then too. It was determined by school districts that the debt service for the increased cost of high-performance buildings was surpassed by energy savings and lower utility bills in those buildings. Operation and maintenance costs were well below the increased debt service. Timm said the same is true of the energy code change package before the Council and directly relates to the question of affordable housing.

Janea compared the energy code change package to the entire 2009 legislative package in the effect they have on recovering from the recession. She said the energy code change package "could potentially have the largest impact on whether or not Washington State gets out of this recession and how soon, and potentially the largest, in my opinion, negative impact potentially on our economy..." She said, with passage of Amendment #11, the state will still make great strides forward in energy conservation. On the other

hand, without passage of Amendment #11, there is a potential of hurting the economy, of killing jobs, and of preventing low-income and middle-income families from affording a new home. Janea said there is also a potential of the integrity of the State Building Code Council being in question, based on the federal preemption issue and the JARRC request for a good economic impact statement.

**The question was called for on Amendment #11. The amendment failed by a roll call vote of 4 aye to 8 nay.**

**Amendment #12:**

**Tien Peng moved adoption of Amendment #12, reducing the number of credits residential homes must receive from Table 9-1 from two to one credit. Jon Napier seconded the motion.**

Tien said Amendment #12 is a good compromise, achievable with one credit. He said it will help reduce the state's dependence on foreign energy; help reduce climate change; and help make housing affordable, which not only includes getting into the home, but staying in it.

Kristyn spoke in support of Amendment #12. She said it's a good compromise that still keeps Washington on the leading edge in energy conservation, while not severely impacting the economy.

**The question was called for on Amendment #12. The amendment was adopted, with one negative vote.**

**Amendment #13:**

**Kristyn Clayton withdrew Amendment #13.**

**Amendment #14:**

**Ray Allshouse moved to not adopt proposed modification of Section 1132.3 of WAC 51-11. Jon Napier seconded the motion.**

Ray said his amendment, proposed on behalf of building officials, opposes lowering from 60 to 20 percent the threshold at which all lighting fixtures in an existing space must be replaced. The lower percentage places an unreasonable financial burden on owners or lessees of a given tenant space, and unfairly hurts small businesses.

Kristyn asked Tim to clarify the importance of the change from 60 to 20 percent. Tim answered that percentage applies to the lighting fixtures that are changed. It is the trigger for tenant improvements, alterations or repairs when the use of a space changes.

**The question was called for. Amendment #14 was adopted by a vote of 8 aye, 3 nay and one abstention.**

**Amendment #15:**

**Kristyn Clayton moved not to adopt proposed modification of Chapter 12, Energy Metering. Jon Napier seconded the motion.**

Kristyn said Chapter 12 is a brand new chapter requiring metering in a building. It requires “intelligence” in a building, with the intent of saving energy. It represents the future way of controlling energy.

Tom expressed concerns. Kristyn said it will be required in all buildings within the next 10 years. Tom expressed reservations about requiring it now, when it may not be workable. Kristyn answered that it is very workable today. The cost is substantially more if it’s not done when the building is built. To go back and retrofit a building to install meters to monitor the energy costs ten times more.

**Kristyn withdrew Amendment #15 in favor of Amendment #16. Jon asked for confirmation that means Chapter 12 is still part of the package. Kristyn agreed.**

**Amendment #16:**

**Kristyn Clayton moved adoption of Amendment #16, which corrects a loophole in Chapter 12 by requiring an aggregate meter for the whole building. Jon Napier seconded the motion.**

John Cochran asked if the word “totalizing” is universally understood and industry-acceptable. Kristyn said she believes so. It means “a meter that totals the entire energy for the entire building.”

Angie suggested 1201 read: “The building shall have a cumulative meter which indicates the total building energy consumption.” She asked if that’s what Kristyn’s trying to get. Kristyn answered no. She wants the meter to read energy consumption for each energy source in the building, for gas, for electricity, for solar. Jon asked for confirmation that Kristyn wants a totalized meter for each energy source. Kristyn answered yes.

Dale asked if the TAG discussed the cost of this amendment. Kristyn said it was identified as a cost with no savings, because it requires human application and use of the information to achieve savings. But she said if people are given the information, they’ll use it.

**The question was called for on Amendment #16. The amendment was adopted by a vote of 9 aye to 3 nay.**

**Amendment #17:**

**Ray Allshouse, on behalf of the Washington Association of Building Officials, moved to not adopt proposed Section 1314.6, vestibules, pertaining to air leakage. Bruce Dammeier seconded the motion.**

Ray said the section his amendment proposes not to adopt requires a seven-foot vestibule at all building entrances that separate conditioned spaces from the exterior. He said its application is unclear, particularly for strip malls.

Angie spoke in opposition to Amendment #17, given the huge loss of energy to buildings without vestibules. She said problems for specific building types need to be fixed, not adopting this amendment.

Jon said the section clearly states, “space from the exterior.” Thus there shouldn’t be a problem with interior doors going into malls. If you’re inside the mall, you’re on the interior, not the exterior. It’s clear the intent is to have vestibules on exterior doors, resulting in substantial energy savings.

Tom also spoke in opposition. He said he thinks the complaint really is about Exceptions 3 and 4. Exception 3 deletes the requirement in buildings 1,000 square feet in area. There may be two entrances in buildings that size, but there’s no distinction between primary and secondary entrances. He thinks WABO, rather than objecting to the intent of the section, objects to the exceptions not being broad enough. They were poorly constructed and not well thought-out. He said this section will be a problem for small tenants. Apologizing for not having amendatory language, Tom said he doesn’t think it should move forward until the problem is solved.

John Cochran agreed with Tom that the amendment is not anti-energy conservation. He said he will vote for Amendment #17 because a seven-foot vestibule is a significant amount of real estate to a small retail tenant in a strip mall.

Angie said the current trend, shifting from interior to exterior entrances in malls, is disconcerting to her because of the huge energy loss. People are using those entrances all day long, every day of the week. She believes Exception 3 offers a compromise for such strip mall tenants:

Building entrances in buildings that are less than 1,000 square feet do not have to comply, nor do doors that open directly from a space that is less than 3,000 square feet in area and separate from the building entrance.

In answer to Angie, Tom said Exception 3 talks about entrances into buildings that are less than 1,000 square feet, which is 33 ft. x 33 ft. That building may have two entrances into it. Such small buildings are exempted from the vestibule requirement. However, buildings which are 1,600 square feet, 40 ft. x 40 ft., require vestibules. Tom said that's ridiculous.

Kristyn asked how to change that, if it's possible at this late date. John Cochran noted that in Chapter 10 under egress, a second exit isn't required in buildings less than 1,500 square feet.

Angie asked if the Council should ignore energy losses in businesses such as Starbucks, where customers enter and leave the store all day, because it seems to be a hardship to the owner to install a vestibule. Tom said Starbucks stores are less than 3,000 square feet, so Exception 4 exempts them, if it's interpreted that way. He said the problem is that the exception isn't written about a building entrance. Rather, it's written about a door that opens directly from a space.

Bruce asked if Section 1314.6 would require a vestibule at employee entrances in the back of stores. Tom said the section doesn't define what entrances are covered. He said that problem needs to be fixed. While the intent is probably "main door, public entrance," it doesn't say that. John Cochran said some Starbucks are larger than 1,000 square feet. Some do, and many do not, have vestibules. A secondary exit, an employee exit in the back, isn't needed if the building is less than 1,500 square feet.

Angie said she thinks the entrance is described in the main paragraph, "building entrances that separate conditioned space from the exterior..." and in Exception 2, "Doors not intended to be used as a building entrance." She said exits in the back of the building, for taking garbage out and delivering goods and products, don't need vestibules. She noted that businesses that don't have vestibules are paying for the energy loss from their customers going in and out, and most businesses voluntarily install a vestibule.

**The question was called for on Amendment #17, to not adopt the vestibule requirement. The amendment was unanimously adopted.**

**Amendment #18:**

**Kristyn Clayton moved to amend Section 1322 of WAC 51-11, deleting the second exception. Jon Napier seconded the motion.**

Kristyn said she makes this motion because she thinks the exception is not written properly. It mixes components, creating a loophole. Tom asked if the problem is the fact that Exception 2 is poorly worded. Kristyn said yes, she believes so.

**The question was called for on Amendment #18. The amendment was unanimously adopted.**

**Amendment #19:**

**Kristyn Clayton moved to amend Table 13-1 of WAC 51-11.**

Kristyn said this amendment deals with mass wall. It's one of several amendments addressing this issue. Kristyn believes Washington has been very lenient and accommodating about mass walls. Having seen both local and national debates, she thinks now is the time to move forward. The issue was discussed at length before the Energy Code TAG and received public hearing testimony from the Concrete Masonry Institute.

**Amendment #19 failed for lack of a second.**

**Amendment #20:**

**Ray Allshouse withdrew Amendment #20.**

**Amendment #21:**

**Kristyn Clayton withdrew Amendment #21.**

**Amendment #22:**

**Kristyn Clayton withdrew Amendment #22.**

**Amendment #23:**

**Tom Kinsman moved to not adopt proposed modification of Section 1515 of WAC 51-11. Jon Napier seconded the motion.**

Tom said he proposed this amendment in response to testimony from Joe Andre, NEMA. Section 1515 allows minimum egress lighting controlled by a switching device that is triggered by movement of a person in the building. Joe brought up the fact that these switching devices haven't been listed to meet a life/safety standard and create a conflict between the WSEC and the building and fire codes. Tom said he clarified these facts with Bob Eugene, Underwriter Laboratories.

Angie agreed with Tom's amendment. While energy savings is important, life/safety is more important.

**The question was called for on Amendment #23. The amendment was unanimously adopted.**

#### **Amendment #24:**

**Kristyn Clayton moved adoption of Amendment #24, modifying the LPA allowance for warehouses. Angie Homola seconded the motion.**

Kristyn said there is a lot of data from the City of Seattle that 0.5 watts per square foot is adequate and very acceptable in warehouses, particularly since lighting technology has advanced so much that watts per square foot is no longer an indicator of illuminance.

Tom said he's proposing Amendment #25, which overrides this one. Kristyn acknowledged that Amendment #24 is somewhat out of order.

Ray asked what the rationale was for amending it to 0.66. He expressed concern that it's misleading the public after holding a public hearing and receiving public comment. Kristyn said she honestly doesn't remember.

**The question was called for on Amendment #24. The amendment was adopted, by a vote of 8 aye, 4 nay and one abstention.**

#### **Amendment #25:**

**Tom Kinsman moved to not adopt proposed modification of Section 1531 and Table 15-1. Jon Napier seconded the motion.**

Tom said this amendment is about lighting power allowance in Table 15-1. It returns to a single Table 15-1, as in the 2006 WSEC, from the dual Table 15-1A and Table 15-1B in the 2009 WSEC. However this proposal doesn't simply reinstate 2006 language, it makes significant improvements over the 2006 code.

Tom said this proposal is from Mary Claire Frazier and a group of other lighting design professionals. He was very impressed with the documentation from that group, analyzing energy improvements based on real world, current projects. This proposal is an improvement, but it's not as aggressive as the table proposed by the Energy Code TAG.

Kristyn said the TAG proposed separating Table 15-1 into 15-1A and 15-1B intentionally to give lighting designers more flexibility. The lighting designers were part of the discussion at the TAG. She asked Tom if he knows why they changed their mind. Tom said he proposed the amendment based on their oral and written testimony. Kristyn said she thinks it was because Table 15-1A was too stringent and didn't provide enough flexibility. Tom said he heard quite a bit from them about not wanting to design lighting systems that have lots of maintenance problems.

John Cochran spoke in support of Tom's amendment. He said he recalls concerns voiced by lighting designers about the availability of new technology from manufacturers. John views the minority report as a practical step forward.

John Chelminiak noted that Amendment #24, which the Council just passed, amended Table 15-1A on warehouses to 0.50. He asked if passage of this amendment would return it to 0.66. Tom answered that he voted against Amendment #24. He prefers 0.66. Tom asked if a motion needs to be made to retain that amount. Kristyn said she could offer #24 as a friendly amendment to #25, but the vote has already been taken on #24, which changes the value to 0.50 and she thinks should stand. Tom refused to recognize #24 as a friendly amendment.

#### **Amendment to Amendment #25:**

**John Chelminiak, given the previous adoption of Amendment #24, moved to adopt a LPA of 0.50 for warehouses. John Cochran and Timm Ormsby both seconded the motion.**

Ray spoke against the amendment. Kristyn noted that 0.66 is less stringent than the 2006 WSEC.

**The question was called for on the Amendment to Amendment #25. The amendment was adopted, 8 aye to 5 nay.**

Kristyn said the table as it was proposed before this amendment was a significant portion of the energy savings for the commercial package. It contains many noncontroversial controls. Some equipment standards were tightened, but basically caught up with the nation. The lighting savings represent approximately 80 percent of the savings realized in the commercial package.

Tom said many values in the table are the same as the current proposal. Kristyn said 16 were negotiated values out of 31, which reduced the original proposal. Angie said it's a mixed bag, some higher, some lower, some the same. Kristyn agreed.

**The question was called for on amended Amendment #25. The amendment was adopted, 11 aye to 2 nay.**

#### **Amendment #26:**

**Dale Wentworth moved adoption of Amendment #26, maintaining the current code requirements for mass walls in nonresidential buildings in Tables 13-1 and 13-2. Jon Napier seconded the motion.**

Dale said he is proposing this amendment because the proposed values in the CR-102 are not cost-effective for all occupancies of such buildings. He pointed out a typo in Table 13-2. The second U-value should read “U-0.08.”

Jon spoke in support of Dale’s amendment. He said mass wall improvements aren’t yet achievable. As discussed at ERAC meetings, there will be a significant small business economic impact. The industry is committed to working toward improving mass wall performance. Jon said he agrees with the intent of this amendment, which is to maintain the status quo while reformatting the tables.

Bruce also supported Amendment #26. He said the energy gains aren’t worth the costs in this case. In addition, some of the application of it appears nonsensical.

**The question was called for on Amendment #26. The amendment was unanimously adopted.**

**Amendment #27:**

**Dale Wentworth moved adoption of Amendment #27, amending default U-factors for concrete and masonry walls in Table 10-5(B)1. Jon Napier seconded the motion.**

Dale said this amendment is supported by ASHRAE.

**The question was called for on Amendment #27. The amendment was unanimously adopted.**

**Amendment #28:**

**Tom moved to not adopt proposed modification of Sections 1550, 1551 and 1552 of WAC 51-11. Jon Napier seconded the motion.**

Tom said the Energy Code TAG proposal was to have specialized controls on both pedestrian escalators and walkways that operate by occupancy sensors. The TAG’s intent was to save energy, restricting the movement of escalators to when there are actual riders on them. He spoke with Bill Watson, the Chief Elevator Inspector at the City of Seattle about this proposal. Bill’s concern, as well as those of Jack Day, the Chief Elevator Inspector at the Department of Labor and Industries, is that the motion sensory devices haven’t received industry approval. Tom said the elevator industry is a very tightly controlled group, governed by national regulations. Both Bill and Jack opposed moving the TAG proposal forward without further collaboration. They also felt regulation of such sensors should be in the ASME codes rather than the WSEC.

Tom said the use of occupancy sensors is a safety problem, because sensors haven’t been sufficiently tested and approved.

Dale said he supports Tom's motion. He wondered, though, if the devices are UL-approved. Tom answered that he doesn't know. All he knows is that they aren't approved by the elevator industry.

Kristyn asked if this proposal was also proposed at the ICC level, and what happened to it there. Krista Braaksma said it was disapproved based on testimony that there is no UL standard for devices that start and stop. Other motion controls have received UL approval, but they aren't start and stop devices.

Jon spoke in favor of Tom's motion. He suggested that a better placement for this might be the IMC instead of the WSEC. Turning escalators off at night when the building isn't occupied makes total sense.

**The question was called for on Amendment #28. The amendment was unanimously adopted.**

**Amendment #29:**

**Representative Bruce Dammeier moved that the provisions of WAC 51-11 adopted on November 20, 2009 take effect on July 1, 2011. Senator Janea Holmquist seconded the motion.**

Bruce asked the record to reflect that every reasonable attempt was made to strike some balance and moderation in the impact of energy code change proposals on the citizens of the State of Washington. That is why he is proposing a one-year delay to allow the building industry and Washington citizens to prepare for the implementation of this package.

John Cochran asked how Bruce's motion interfaces with the Council vote earlier this year to adopt the IECC. Kristyn said the Energy Code TAG workplan for 2010 is to work on the transition, beginning with a section-by-section comparative review in January. She said the intent is subsequent final adoption in 2012, as directed by the Council. Kristyn said she views the two as very independent things. The impact varies, depending upon whether or not it goes back to the TAG level. Bruce clarified that his intent is a simple delay of the implementation date, with no further work by the Energy Code TAG. Kristyn then asked if there are unintended consequences of the delay. She asked Bruce if a one-year delay makes any difference in today's Council actions. Bruce said he hopes so. He said giving the industry a year to prepare for energy code changes is a reasonable accommodation.

Angie said Bruce's motion flies in the face of everything the Council does. She absolutely opposes it. Much good work, including a lot of compromising, has been done so Washington can move forward with energy conservation.

Ray spoke in support of the motion. He expressed concern that sufficient compromises weren't made based on today's economic climate. While voicing appreciation and respect for his colleagues' work on the energy code change package, he said it's reasonable to provide a breather for the industry to react to changes.

Don asked Tim about potential impacts. Tim said the Council would have to adjust its code change proposal process to not accept any code change proposals for the next cycle until after the effective date of the energy code.

Angie said the Council has a responsibility to have amendments in a timely manner so that they can be addressed by the public in hearings and by this body. She objects to the Council acting on such a **really** substantial amendment at this late date without having gone through a public hearing process.

John Chelminiak agreed with Angie that it's time to move forward. A delay not only impacts state government, but local governments throughout the state as well, without serving a purpose.

In response to the timeliness issue, Bruce said he provided this amendment to Council staff at the last Council meeting and later electronically. Despite problems with mistaken deletions, he said it's been available since last week.

Kristyn asked if Bruce's motion accomplishes anything but "buying time." Bruce answered that the energy code change package places a significant administrative burden on municipalities at a time when they have no resources to deal with it. The package also places a significant burden on builders when they have no opportunity to adapt and adjust to it. The impact on the state's economy is significant. Delaying implementation until 2011 may coincide with market recovery.

Timm Ormsby spoke in opposition to the motion. He said the question was basically answered at the November 12 meeting when the Council voted on whether or not to hold an additional meeting to deal with energy code change proposals. That set in motion a time frame for approval by December 1, 2009 and implementation by July 1, 2010. Because every previous vote on energy code change proposals was based on that time line, adoption of Bruce's motion invalidates all of those votes.

Angie asked Tim if it's possible to continually delay implementation long enough to justify not doing it at all, because of moving to the IECC. Tim answered that it is possible. He noted effective dates are filed with the Code Reviser along with the final approved rule. Revision after that is possible, but requires Council action and another Code Reviser filing.

Ray asked Council members to remember that what drives the schedule is the requirement that Council rules be published in sufficient time to sit through a legislative session before enactment. The purpose of that is so the Legislature has the option to change Council rules, if it disagrees with what the Council has done.

Jon said the public hearing process hinged on the fact that the Council was going through normal rulemaking. All public testimony received was based on that. Representative Dammeier's amendment is a huge deviation from what public testimony was received on.

Local jurisdictions, such as Jon's, are moving forward buildings that have been vested. All those homes that have already been permitted will be vested under the existing WSEC. So there is time for the building industry to prepare for the energy code change package.

Jon said while he won't be on the Council next year, he thinks a discussion needs to occur about how the Council wants to move forward with development of the energy code. Does the Council want to take a year off to collect amendments to make a good fit and involve all stakeholders, so a very comprehensive evaluation can be made as the Council moves to the IECC? Jon suggested doing so before moving forward with the initiative passed by the Senate in incremental steps.

Janea spoke in favor of the motion. She drew an analogy between the impact of energy code changes on builders and an infant learning to walk. She said Bruce's amendment follows the Legislature's normal practice of allowing time for industry to acclimatize to significant changes.

Kristyn applauded all the hard work of the Energy Code TAG. She said it did a great job, with lots of passion, and give and take. This year's energy code change package is unprecedented, to Kristyn's knowledge, in Council history. She said a one-year delay was never envisioned. If it had been from the beginning, the package would be very different. She said Bruce's amendment, as simple and innocent as it appears, may have major procedural and policy implications, unintended consequences, which Council members are not aware of at this time. The Energy Code TAG had Council support for moving forward with energy conservation and answering the Governor's call. Kristyn said Bruce's amendment may be viewed as a "slap in the Governor's face."

Bruce said Jon's comments brought to mind an unintended positive consequence of passage of his amendment. He asked Council members to assume that the increased cost per home of the energy code change package is \$10,000. If Washington's citizens have to pay \$10,000 more for their homes after July 1, 2011, most will try to beat that date and save the money. Thus an enactment date of July 1, 2011 would be an incentive for the sale of homes before that date. It could stimulate the housing market at a time when it's most needed.

**The question was called for on Amendment #29. A show of hands resulted in 2 aye to 11 nay. The amendment failed.**

**Amendment #31:**

**Mari Hamasaki moved to strike “due to climatic conditions” in Section 1416.3.5(3). Jon Napier seconded the motion.**

Mari noted that Kristyn was allowing her to proceed before going on to Amendment #30, modifying her proposed amendment to allow the submittal of a deferred testing list. Not all of the testing is due to climatic changes. Some is due to scheduling or other factors. The deferred list can be all-encompassing and more flexible.

**The question was called for on Amendment #31. The amendment was unanimously adopted.**

**Amendment #30:**

Kristyn asked Krista if Amendment #30, which largely includes clarifications, changes to terminology that’s not quite right, and aligning previously adopted provisions, can be considered clerical. Krista said no, she doesn’t feel it’s editorial. Tom suggested separating out the editorial corrections, giving those to staff, and withdrawing the rest.

**Kristyn Clayton moved forward Amendment #30, pulling out those staff feels are editorial. Mari Hamasaki seconded the motion.**

**Amendment to Amendment #30:**

**Tom Kinsman moved to segregate editorial corrections for Council staff action and withdraw the remaining corrections. Dale Wentworth seconded the motion.**

Jon spoke against the amendment. He said Council staff has already been given the authority to make editorial corrections. The amendment “muddies the water.”

**Kristyn Clayton withdrew her motion, with the approval of the second.**

**Amendment #32:**

**Ray Allshouse, noting his respect and acceptance of Council opinions, requested reconsideration of Amendment #1, to move provisions from Sections 502.4.5 and 602.8 into Chapter 9. Tien Peng seconded the motion.**

Tien said this amendment moves air leakage testing into Table 9-1, providing an option not presently available. It will be Option A, the present Option A becomes Option B, and the present Option B becomes Option C.

John Chelminiak noted that Amendment #1 was withdrawn.

**Ray Allshouse revised his motion to ask for reconsideration of the content of Amendment #1.**

Kristyn explained that currently air leakage testing is in the body of the residential code and is mandatory. Kristyn's Amendment #1, which she withdrew, was to make it optional in Chapter 9.

Angie spoke against the motion. She questioned how adding another option in Chapter 9 now reconciles with the previous removal of one of the points. That removal was a huge compromise. Acknowledging Angie's concern, Ray said he believes Chapter 9 is vulnerable to legal challenge. It would be easier to defend with passage of his motion. Angie agreed that the Legislature may delete Chapter 9 before enactment. She said if that happens, Sections 502.4.5 and 602.8 would also be lost if Ray's motion passes.

Dale spoke against the motion. He said air leakage testing is an easy way for homeowners to achieve substantial savings during the life of their home. While furnaces may fail, ductwork remains for the life of the building. Dale said the average savings is 30-40 percent.

Ray said he views Chapter 9 as being vulnerable because it promotes high-efficiency equipment. He views his motion as an incentive for a "can do" procedure with a good payback. However, he didn't argue the possibility that air leakage testing may be deleted with Chapter 9 if his motion is adopted. Bruce noted that he finds the practice of considering energy code change proposals with the rationale of impacting a legal challenge very interesting.

**The question was called for on Amendment #32. By a show of hands, 3 aye to 10 nay, the motion failed.**

Jon confirmed that there was a motion and a second at the last meeting to adopt the Washington State Energy Code as amended.

**The question was called for on Motion #2, final adoption of the energy code as amended. The motion was unanimously adopted.**

## **STAFF REPORT**

Tim called attention to the Proposed 2010 Meeting Schedule on lavender paper. He said six Council meetings are proposed to be held next year, on Thursdays, with two optional meetings if necessary. Legislative conference call meetings will be held on a weekly basis during session, on Thursdays at 3 p.m. Tim said the Council needs to approve the schedule, so it can be filed with the Code Reviser.

John Cochran said the Track I ICC final hearings will be held in May. The Track II hearings, including the energy code, will be held in October.

John Chelminiak said meetings held on the second Thursday of the month conflict with a standing meeting he has to attend. He asked if Council meeting dates can be changed to Fridays. Other members agreed that Fridays would be better.

**Motion #5:**

**John Cochran moved that Council meetings during 2010 be held on the second Fridays of January, March, June, September, October and November. Tentative meetings are scheduled in April and May if needed. Legislative conference call meetings remain on Thursdays during the session. Ray Allshouse seconded the motion.**

Noting the big turnover of Council members next year, Jon asked if additional educational meetings can be added, perhaps with participation by BIAW and energy coalitions. He said educational workshops would have been really helpful to him. Tim said meetings can be added. Peter agreed with Jon that would be very helpful, particularly for the first meeting. He said the terms of five Council members end in January. An orientation session the morning of the January meeting would be helpful.

On behalf of the Council, Peter thanked staff for the tremendous amount of work accomplished this year. Council members agreed with a round of applause. Peter also thanked Council members for their opinions, pro or con, because all comments helped the decision making process. He wished Council members and staff the best of luck in future pursuits.

Angie thanked Peter for his diplomatic leadership during such a difficult code adoption year. Regarding the meeting schedule, Angie suggested an earlier start, 9 a.m. instead of 10 a.m. She said that works better for her, because she has a longer commute and may stay overnight the night before the meeting. Tim said staff will poll members about the start time of meetings.

Tim advised that the Department of Community, Trade and Economic Development, which houses the Council and provides administrative and clerical support, has now become the Department of Commerce. With that reassignment, the Governor has recommended that the Council move to the Department of Labor and Industries. Tim noted that legislative approval is necessary before any move. He would like to explore other options with the Council's Legislative Committee, such as the small business program at the Department of General Administration.

Kristyn asked if the Council is still a rulemaking body. Tim answered yes. He said the Council has the same authority.

Kristyn thanked Peter and Jon, with a round of applause, for their leadership and guidance.

## **ADJOURNMENT**

Lacking further business, Peter adjourned the meeting at 1:45 p.m.